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STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Fish and Game Commission



June 17, 2014

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a copy of the notice of proposed regulatory action relative to Section 180.6, Title 14, California Code of Regulations, relating to a minimum hole diameter for commercial hagfish traps, which will be published in the California Regulatory Notice Register on June 20, 2014.

Please note the dates of the public hearings related to this matter and associated deadlines for receipt of written comments.

Dr. Craig Shuman, Manager, Marine Region, Department of Fish and Wildlife, telephone number (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations.

Sincerely,

Sherrie Fonbuena

Sherrie Fonbuena
Associate Governmental Program Analyst

Attachment

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 8403 and 9022 of the Fish and Game Code and to implement, interpret or make specific said sections of said Code, proposes to add Section 180.6, Title 14, California Code of Regulations (CCR), relating to Pacific hagfish traps.

Informative Digest/Policy Statement Overview

Current statutes, California Fish and Game Code Sections 9000.5(a)-(d), 9001, and 9001.6, define the types of traps used in the hagfish fishery, require a general trap permit, specify maximum number of traps allowed by type, and prohibit possession of other species or gear while targeting or having in possession hagfish. No statute or regulation exists requiring a minimum hole diameter for hagfish traps.

The proposed regulation would require all traps used within the hagfish fishery to have a minimum hole diameter of 9/16 inch. Its purpose is to sustain the hagfish resource by promoting escapement of smaller, immature hagfish.

BENEFITS OF THE PROPOSED ACTION:

The proposed regulation benefits the environment. Adoption of measures to ensure escapement of immature hagfish will help maintain sufficient populations of hagfish to ensure the continued sustainability of this resource.

EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the commercial take of finfish using traps (sections 8403 and 9022, Fish and Game Code). No other State agency has the authority to promulgate commercial fishing regulations. The proposed regulations are compatible with sections 180, 180.2, 180.4 and 180.5, Title 14, CCR, which address other aspects of commercial take of finfish using traps. The Commission has searched the CCR for any regulations regarding trap hole size diameter for the commercial take of hagfish and has found no such regulation; therefore the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing State regulations.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton San Diego Mission Valley, 901 Camino del Rio South, San Diego, California, on Wednesday, August 6, 2014 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 24, 2014 at the address given below, or by e-mail to FGC@fgc.ca.gov. Written comments mailed or e-mailed to the Commission office, must be received before 5:00 p.m. on August 4, 2014. All comments must be received no later than August 6, 2014, at the hearing in San Diego, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Sonke Mastrup, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Sonke Mastrup or Sherrie Fonbuena at the preceding address or phone number.

Craig Shuman, Regional Manager, Marine Region, Department of Fish and Wildlife, phone (805) 568-1246, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Analysis

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This is an export-only fishery, with very few participating fishery receivers. The demand from the primary importing country has been stable for several years and is increasing.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

No impacts are anticipated on the creation or elimination of jobs within the state, the creation of new businesses or elimination of existing businesses, or the expansion of businesses in California. The commercial fishery is influenced primarily by the foreign market demand for hagfish.

There is no anticipated change in benefit to the health and welfare of California residents. The fishery is entirely for foreign export, so the regulation is unlikely to affect the health and welfare of California residents.

The proposed regulation does not affect worker safety.

There are anticipated benefits to the environment by the sustainable management of California's hagfish resource.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission anticipates minor costs to some hagfish fishermen to drill larger holes in their current traps. Some fishermen already comply but the number is not known. The cost for the work to comply is estimated to be \$500.00 per fisherman.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: June 6, 2014

Sonke Mastrup
Executive Director